

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00779-TJK

PROTECT DEMOCRACY PROJECT, INC. v. U.S.
 DEPARTMENT OF ENERGY
 Assigned to: Judge Timothy J. Kelly
 Cause: 05:552 Freedom of Information Act

Date Filed: 04/27/2017
 Jury Demand: None
 Nature of Suit: 895 Freedom of
 Information Act
 Jurisdiction: U.S. Government Defendant

Plaintiff

**PROTECT DEMOCRACY
 PROJECT, INC.**

represented by **Benjamin Leon Berwick**
 PROTECT DEMOCRACY PROJECT,
 INC.
 10 Ware Street
 Cambridge, MA 02138
 (202) 599-0466
 Fax: (929) 777-8428
 Email: ben.berwick@protectdemocracy.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael E. Stewart
 JENNER & BLOCK LLP
 1099 New York Avenue, NW
 Suite 900
 Washington, DC 20001-4412
 (202) 637-6329
 Fax: (202) 639-6066
 Email: MStewart@jenner.com
ATTORNEY TO BE NOTICED

Lindsay C. Harrison
 JENNER & BLOCK LLP
 1099 New York Avenue, NW
 Suite 900
 Washington, DC 20001-4412
 (202) 639-6865
 Email: LHarrison@jenner.com
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. DEPARTMENT OF ENERGY

represented by **Dena Michal Roth**
 U.S. DEPARTMENT OF JUSTICE
 Civil Division/Federal Programs Branch
 1100 L Street NW
 Room 11204
 Washington, DC 20005
 (202) 514-5108
 Email: dena.m.roth@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel J. Halainen
 U.S. DEPARTMENT OF JUSTICE
 Civil Division, Federal Programs Branch
 1100 L Street, NW
 Room 12304
 Washington, DC 20005

(202) 616-8101
 Fax: (202) 616-8470
 Email: daniel.j.halainen@usdoj.gov
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/27/2017	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF ENERGY (Filing fee \$ 400 receipt number 0090-4930393) filed by THE PROTECT DEMOCRACY PROJECT, INC.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons, # <u>7</u> Civil Cover Sheet)(Harrison, Lindsay) (Entered: 04/27/2017)
04/27/2017	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by THE PROTECT DEMOCRACY PROJECT, INC. (Harrison, Lindsay) (Entered: 04/27/2017)
05/01/2017		Case Assigned to Judge Royce C. Lamberth. (zsb) (Entered: 05/01/2017)
05/01/2017	<u>3</u>	SUMMONS (3) Issued Electronically as to U.S. DEPARTMENT OF ENERGY, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Form)(zsb) (Entered: 05/01/2017)
05/08/2017	<u>4</u>	NOTICE of Appearance by Benjamin Leon Berwick on behalf of PROTECT DEMOCRACY PROJECT, INC. (Berwick, Benjamin) (Entered: 05/08/2017)
06/02/2017	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 5/8/2017. Answer due for ALL FEDERAL DEFENDANTS by 6/7/2017. (Harrison, Lindsay) (Entered: 06/02/2017)
06/02/2017	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 05/08/2017. (Harrison, Lindsay) (Entered: 06/02/2017)
06/05/2017	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF ENERGY served on 5/26/2017 (Harrison, Lindsay) (Entered: 06/05/2017)
06/07/2017	<u>8</u>	ANSWER to <u>1</u> Complaint by U.S. DEPARTMENT OF ENERGY.(Roth, Dena) Modified to add link on 6/8/2017 (znmw). (Entered: 06/07/2017)
09/15/2017		Case directly reassigned to Judge Timothy J. Kelly. Judge Royce C. Lamberth is no longer assigned to the case. (ztnr) (Entered: 09/15/2017)
10/12/2017		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil Procedure appear to be inapplicable. It is hereby ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues and that contains a proposed schedule and proposed order not later than 10/26/17. Signed by Judge Timothy J. Kelly on 10/12/2017. (lctjk1) (Entered: 10/12/2017)
10/13/2017		Set/Reset Deadlines: Joint Status Report due by 10/26/2017. (kh) (Entered: 10/13/2017)
10/26/2017	<u>9</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 10/26/2017)
10/27/2017		MINUTE ORDER: In light of the parties' <u>9</u> Joint STATUS REPORT dated October 26, 2017, it is hereby ORDERED that the parties shall file a joint status report proposing a schedule for further proceedings by the earlier of December 15, 2017, or fourteen days following Defendant's final release of non-exempt responsive records,

		unless a stipulation of dismissal is filed before that time. Signed by Judge Timothy J. Kelly on 10/27/2017. (lctjk2) (Entered: 10/27/2017)
12/01/2017	<u>10</u>	NOTICE of Appearance by Daniel J. Halainen on behalf of U.S. DEPARTMENT OF ENERGY (Halainen, Daniel) (Entered: 12/01/2017)
12/15/2017	<u>11</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Halainen, Daniel) (Entered: 12/15/2017)
12/18/2017		MINUTE ORDER: In light of the parties' <u>11</u> Joint Status Report, it is hereby ORDERED that the following schedule shall govern the filing of dispositive motions in this case: Defendant shall file its motion for summary judgment by February 16, 2018. Plaintiff shall file its cross-motion for summary judgment and opposition to Defendant's motion by March 20, 2018. Defendant shall file its reply in support of its motion and its opposition to Plaintiff's motion by April 19, 2018. Plaintiff shall file its reply by May 3, 2018. Signed by Judge Timothy J. Kelly on 12/18/2017. (lctjk2) (Entered: 12/18/2017)
02/16/2018	<u>12</u>	MOTION for Summary Judgment by U.S. DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration, # <u>3</u> Exhibit Exhibits to Declaration, # <u>4</u> Statement of Facts, # <u>5</u> Text of Proposed Order)(Roth, Dena) (Entered: 02/16/2018)
03/20/2018	<u>13</u>	Cross MOTION for Summary Judgment , <i>Opposition to Defendant's Motion for Summary Judgement, and Statement of Material Facts</i> by PROTECT DEMOCRACY PROJECT, INC. (Attachments: # <u>1</u> Declaration of Michael E. Stewart, # <u>2</u> Exhibits to Stewart Declaration, # <u>3</u> Text of Proposed Order)(Harrison, Lindsay) (Entered: 03/20/2018)
03/20/2018	<u>14</u>	Memorandum in opposition to re <u>12</u> MOTION for Summary Judgment filed by PROTECT DEMOCRACY PROJECT, INC.. (See Docket Entry <u>13</u> to view document). (znmw) (Entered: 03/21/2018)
04/17/2018	<u>15</u>	Unopposed MOTION for Extension of Time to File Response/Reply by U.S. DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 04/17/2018)
04/18/2018		MINUTE ORDER granting Defendant's <u>15</u> Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendant's motion is GRANTED. Defendant shall file its reply in support of its motion for summary judgment and its opposition to Plaintiff's motion for summary judgment by May 31, 2018. Plaintiff shall file its reply by June 14, 2018. Signed by Judge Timothy J. Kelly on 4/18/2018. (lctjk2) (Entered: 04/18/2018)
05/31/2018	<u>16</u>	Memorandum in opposition to re <u>13</u> Cross MOTION for Summary Judgment , <i>filed by U.S. DEPARTMENT OF ENERGY</i> . (Attachments: # <u>1</u> Exhibit, # <u>2</u> Statement of Facts)(Roth, Dena) . (Entered: 05/31/2018)
06/01/2018	<u>17</u>	REPLY to opposition to motion re <u>12</u> MOTION for Summary Judgment filed by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Statement of Facts Response to Plaintiff's Statement of Facts)(Roth, Dena) (Entered: 06/01/2018)
06/13/2018	<u>18</u>	NOTICE of Appearance by Michael E. Stewart on behalf of PROTECT DEMOCRACY PROJECT, INC. (Stewart, Michael) (Entered: 06/13/2018)
06/14/2018	<u>19</u>	REPLY to opposition to motion re <u>13</u> Cross MOTION for Summary Judgment , <i>Opposition to Defendant's Motion for Summary Judgement, and Statement of Material Facts</i> filed by PROTECT DEMOCRACY PROJECT, INC.. (Attachments: # <u>1</u> Supplemental Declaration of Michael E. Stewart, # <u>2</u> Exhibits to Supplemental Declaration of Michael E. Stewart)(Stewart, Michael) (Entered: 06/14/2018)
09/17/2018	<u>20</u>	MEMORANDUM OPINION AND ORDER granting in part and denying in part Defendant's <u>12</u> Motion for Summary Judgment, and granting in part and denying in part Plaintiff's <u>13</u> Cross-Motion for Summary Judgment. The parties shall promptly meet and confer regarding additional custodians and appropriate search terms for Defendant's search in response to Plaintiff's first request. Joint status reports due on October 17, 2018, and every thirty (30) days thereafter until Defendant has released all nonexempt, responsive material. Within thirty (30) days after Defendant has

		completed its final release, the parties shall meet, confer, and file a joint report as set forth in the Court's Order. See Opinion and Order for details. Signed by Judge Timothy J. Kelly on 9/17/2018. (lctjk2) (Entered: 09/17/2018)
09/27/2018	<u>21</u>	NOTICE of Change of Address by Dena Michal Roth (Roth, Dena) (Entered: 09/27/2018)
10/17/2018	<u>22</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 10/17/2018)
11/16/2018	<u>23</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 11/16/2018)
12/17/2018	<u>24</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 12/17/2018)
01/14/2019	<u>25</u>	MOTION to Stay by U.S. DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 01/14/2019)
01/14/2019		MINUTE ORDER: It is hereby ORDERED that the deadline for the parties to submit their next joint status report is EXTENDED to February 18, 2019. Signed by Judge Timothy J. Kelly on 1/14/2019. (lctjk2) (Entered: 01/14/2019)
01/15/2019		Set/Reset Deadlines: Joint Status Report due by 2/18/2019. (kh) (Entered: 01/15/2019)
01/29/2019		MINUTE ORDER denying Defendant's <u>25</u> Motion to Stay. In light of the restoration of funding to the Department of Justice, it is hereby ORDERED that Defendant's motion is DENIED AS MOOT. Signed by Judge Timothy J. Kelly on 1/29/2019. (lctjk2) (Entered: 01/29/2019)
02/11/2019	<u>26</u>	Unopposed MOTION for Extension of Time to <i>file Joint Status Report</i> by U.S. DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 02/11/2019)
02/11/2019		MINUTE ORDER granting Defendant's <u>26</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendant's motion is GRANTED. The deadline for the parties to submit their next joint status report is EXTENDED to February 22, 2019. Signed by Judge Timothy J. Kelly on 2/11/2019. (lctjk2) (Entered: 02/11/2019)
02/22/2019	<u>27</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 02/22/2019)
02/22/2019		MINUTE ORDER: In light of the parties' <u>27</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by March 25, 2019, updating the Court on the progress of their settlement negotiations. Signed by Judge Timothy J. Kelly on 2/22/2019. (lctjk2) (Entered: 02/22/2019)
03/25/2019	<u>28</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Roth, Dena) (Entered: 03/25/2019)
03/25/2019		MINUTE ORDER: In light of the parties' <u>28</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by April 24, 2019, updating the Court on the progress of their settlement negotiations. Signed by Judge Timothy J. Kelly on 3/25/2019. (lctjk2) (Entered: 03/25/2019)